



Article 3. Permit Conditions

§66270.30. Conditions Applicable to All Permits.

The following conditions apply to all permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the appropriate regulations shall be given in the permit.

(a) Duty to comply. The permittee shall comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See section 66270.61). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the appropriate statute or regulation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit.

(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize or correct releases to the environment, and shall carry out all measures as are reasonable to prevent and correct adverse impacts on human health or the environment.

(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(g) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, not to exceed 30 days unless a time extension is approved by the Department, any relevant information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. The permittee shall allow an authorized representative of the Department, the State Water Resources Control Board or a Regional Water Quality Control Board, upon the presentation of credentials and other documents as may be required by law to:

(1) enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by law, any substances or parameters at any location.

(j) Monitoring and records.

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by section 66264.73(b)(9) of this division, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Department at any time. The permittee shall maintain records from all groundwater monitoring wells and associated ground water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

(3) Records for monitoring information shall include:

(A) the date, exact place, and time of sampling or measurements;

(B) the name(s) of the individual(s) who performed the sampling or measurements;

(C) the date(s) analyses were performed;

(D) the name(s) of the individual(s) who performed the analyses;

(E) the analytical techniques or methods used; and

(F) the results of such analyses.

(k) Signatory requirements. All applications, reports, or information submitted to the Department shall be signed and certified. (See section 66270.11.)

(l) Reporting requirements. (1) Planned changes. The permittee shall give notice to the Department as soon

as possible and at least 30 days in advance of any planned physical alterations or additions to the permitted facility.

(2) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee shall not transfer, treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee shall not transfer, treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in section 66270.42, until:

(A) the permittee has submitted to the Department by certified mail or hand delivery a letter signed by the permittee and a professional engineer, registered in California, stating that the facility has been constructed or modified in compliance with the permit; and

(B) 1. the Department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

2. if within 15 days of the date of submission of the letter in subsection (l)(2)(A) of this section, the permittee has not received notice from the Department of the Department's intent to inspect, prior inspection is waived and the permittee may commence transfer, treatment, storage, or disposal of hazardous waste.

(3) Transfers. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary. (See section 66270.40.)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(A) The permittee shall report any noncompliance which may endanger health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

1. information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;

2. any information of a release or discharge of hazardous waste or of a fire or explosion from the hazardous waste facility, which could threaten the environment or human health outside the facility.

(B) The description of the occurrence and its cause shall include:

1. name, address, and telephone number of the owner or operator;

2. name, address, and telephone number of the facility;

3. date, time, and type of incident;

4. name and quantity of material(s) involved;

5. the extent of injuries, if any;

6. an assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

7. estimated quantity and disposition of recovered material that resulted from the incident.

(C) A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Department may waive the 5-day written notice requirement in favor of a written report within 15 days.

(7) Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee shall submit a letter report, including a copy of the manifest, to the Department. (See section 66264.72.)

(8) Unmanifested hazardous waste report. This report shall be submitted to the Department within 15 days of receipt of unmanifested waste. (See section 66264.76.)

(9) Annual report. An annual report shall be submitted to the Department covering facility activities during the previous calendar year. (See section 66264.75.)

(10) Other noncompliance. The permittee shall report all instances of noncompliance not reported under subsections (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in subsection (l)(6) of this section.

(11) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(m) Information repository. For facilities applying for a RCRA permit, the Director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in section 66271.33(b). The information repository will be governed by the provisions in section 66271.33(c) through (f).

NOTE: Authority cited: Sections 25150, 25159 and 58012, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.30.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

2. Change without regulatory effect adding new subsection (m) filed 12-19-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 51).

3. Amendment of subsection (l)(7) and NOTE filed 4—4—2002 as an emergency; operative 4—4—2002 (Register 2002, No. 14). A Certificate of Compliance must be transmitted to OAL by 8—2—2002 or emergency language will be repealed by operation of law on the following day.

4. Amendment of subsection (l)(7) and amendment of NOTE refiled 8—1—2002 as an emergency; operative 8—1—2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12—2—2002 or emergency language will be repealed by operation of law on the following day.

5. Amendment of subsection (l)(7) and amendment of NOTE refiled 12—2—2002 as an emergency; operative 12—3—2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4—2—2003 or emergency language will be repealed by operation of law on the following day.

6. Amendment of subsection (l)(7) and amendment of NOTE refiled 4—1—2003 as an emergency; operative 4—3—2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8—1—2003 or emergency language will be repealed by operation of law on the following day.

7. Repealer of 4—1—2003 order and amendment of NOTE filed 7—10—2003 as an emergency; operative 7—10—2003 (Register 2003, No. 28). Pursuant to Health and Safety Code section 25169.8, this is a deemed emergency and stays effective until revised by the agency.

§66270.31. Requirements for Recording and Reporting of Monitoring Results.

All permits shall specify:

(a) requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(b) required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

(c) applicable reporting requirements based upon the impact of the regulated activity and as specified in chapters 14 and 16 of this division. Reporting shall be no less frequent than specified in the above regulations.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.31.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66270.32. Establishing Permit Conditions.

(a) In addition to conditions required in all permits (section 66270.30), the Department shall establish conditions, as required on a case-by-case basis, in permits under section 66270.50 (duration of permits), section 66270.33(a) (schedules of compliance), section 66270.31 (monitoring), section 66270.33(b) (alternate schedules of compliance), and section 66270.3 (considerations under Federal law).

(b)(1) Each permit shall include permit conditions necessary to achieve compliance with the statutes and regulations, including each of the applicable requirements specified in chapters 14, 16, and 18 of this division. In satisfying this provision, the Department may incorporate applicable requirements of chapters 14, 16 and 18 of this division directly into the permit or establish other permit conditions that are based on these chapters.

(2) In addition to conditions required in all permits, each permit issued shall contain terms and conditions as the Department determines necessary to protect human health and the environment.

(c) An applicable requirement is a statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit or prior to the modification or revocation and reissuance of a permit, to the extent allowed in section 66270.41. Section 66271.13 (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable.

(d) New or reissued permits, and to the extent allowed under section 66270.41, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this section and in section 66270.31.

(e) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.32.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66270.33. Schedules of Compliance.

(a) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the statutes and regulations.

(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(2) Interim dates. Except as provided in subsection (b)(1)(B) of this section, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(A) The time between interim dates shall not exceed one year.

(B) If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(3) Reporting. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Department in writing, of its compliance or noncompliance with the interim or final requirements.

(b) Alternative schedules of compliance. A permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for transfer, treatment and storage hazardous waste management facilities, closing pursuant to applicable requirements; and, for disposal hazardous waste management facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows.

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(A) the permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(B) the permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two schedules as follows:

(A) both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(B) one schedule shall lead to timely compliance with applicable requirements;

(C) the second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

(D) each permit containing two schedules shall include a requirement that after the permittee has made a final decision under subsection (b)(3)(A) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as resolution of the board of directors of a corporation.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.33.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).